

Composite Exhibit A

Mississippi Electronic Courts
Hinds County Circuit Court (Hinds Circuit Court - Jackson)
CIVIL DOCKET FOR CASE #: 25CI1:16-cv-00547-TTG

MCGREW v. WOODLANDS REHABILITATION AND
HEALTHCARE CENTER, LLC et al
Assigned to: Senior Circuit Judge Tomie Green

Date Filed: 09/26/2016
Jury Demand: None
Nature of Suit: 180 Malpractice -
Medical
Jurisdiction: General

Plaintiff

WILLIAM MCGREW

represented by **James Michael Priest , Jr**
Gill Ladner & Priest PLLC
344 Highway 51, Suite 200
RIDGELAND , MS 39157
601-352-5700
Fax: 601-352-5353
Email: jamie@glplawfirm.com
ATTORNEY TO BE NOTICED

V.

Defendant

**WOODLANDS REHABILITATION
AND HEALTHCARE CENTER,
LLC**

formerly known as

TRINITY MISSION HEALTH AND
REHAB OF CLINTON, LLC

doing business as

TRINITY MISSION HEALTH AND
REHAB OF CLINTON

represented by **Andrew Sutton Bullock ,**
QUINTAIROS, PRIETO, WOOD &
BOYER, P.A.
215 South Monroe Street, Suite 600
TALLAHASSEE , FL 32301
601-951-7111
Fax: 850-412-1043
Email: andrew.bullock@qpwbllaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

William Eugene Grubbs
Quintairos Prieto Wood & Boyer PA
215 South Monroe Street
Suite 600
TALLAHASSEE , FL 32301
850-412-1042
Fax: 850-412-1043
Email: wgrubbs@qpwbllaw.com
ATTORNEY TO BE NOTICED

Defendant

UNKNOWN DEFENDANTS 1-10

Date Filed	#	Docket Text
09/26/2016	<u>2</u>	COMPLAINT against UNKNOWN DEFENDANTS 1-10, WOODLANDS REHABILITATION AND HEALTHCARE CENTER, LLC, filed by WILLIAM MCGREW. (Attachments: # <u>1</u> Civil Cover Sheet) (TC) (Entered: 09/26/2016)
09/26/2016	<u>3</u>	SUMMONS Issued to WOODLANDS REHABILITATION AND HEALTHCARE CENTER, LLC. Mailed back to atty (TC) (Entered: 09/26/2016)
01/19/2017	<u>4</u>	SUMMONS Returned Executed by WILLIAM MCGREW. WOODLANDS REHABILITATION AND HEALTHCARE CENTER, LLC served on 1/9/2016, answer due 2/8/2016. Service type: Personal (Priest, James) (Entered: 01/19/2017)
02/08/2017	<u>5</u>	NOTICE of Appearance by Andrew Sutton Bullock on behalf of WOODLANDS REHABILITATION AND HEALTHCARE CENTER, LLC (Bullock, Andrew) (Entered: 02/08/2017)
02/08/2017	<u>6</u>	MOTION to Dismiss by Defendant WOODLANDS REHABILITATION AND HEALTHCARE CENTER, LLC (Bullock, Andrew) (Entered: 02/08/2017)
02/08/2017	<u>7</u>	RESPONSE in Support re <u>6</u> MOTION to Dismiss by WOODLANDS REHABILITATION AND HEALTHCARE CENTER, LLC. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit) (Bullock, Andrew) (Entered: 02/08/2017)
02/08/2017	<u>8</u>	DEFENDANTS ANSWER to <u>2</u> Complaint by WOODLANDS REHABILITATION AND HEALTHCARE CENTER, LLC. (Bullock, Andrew) (Entered: 02/08/2017)
02/08/2017	<u>9</u>	NOTICE of Appearance by William Eugene Grubbs on behalf of WOODLANDS REHABILITATION AND HEALTHCARE CENTER, LLC (Grubbs, William) (Entered: 02/08/2017)
02/20/2017	<u>10</u>	RESPONSE in Opposition re <u>6</u> MOTION to Dismiss by WILLIAM MCGREW. (Attachments: # <u>1</u> Exhibit A September 23, 2016 letter, # <u>2</u> Exhibit B May 20, 2015 letter, # <u>3</u> Exhibit C June 16, 2015 letter) (Priest, James) (Entered: 02/20/2017)
02/20/2017	<u>11</u>	MEMORANDUM in Opposition re <u>6</u> MOTION to Dismiss by WILLIAM MCGREW. (Priest, James) (Entered: 02/20/2017)
04/24/2017	<u>12</u>	NOTICE OF SERVICE of Request for Admissions Propounded to Plaintiff by WOODLANDS REHABILITATION AND HEALTHCARE CENTER, LLC. (Bullock, Andrew) (Entered: 04/24/2017)

Case: 25CI1:16-cv-00547-TTG Document #: 2 Filed: 09/26/2016 Page 1 of 5

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

WILLIAM McGREW

PLAINTIFF

v.

Civil Action No. 16-547

WOODLANDS REHABILITATION AND
HEALTHCARE CENTER, LLC formerly
known as TRINITY MISSION HEALTH
AND REHAB OF CLINTON, LLC doing
business as TRINITY MISSION HEALTH
AND REHAB OF CLINTON and
UNKNOWN DEFENDANTS 1-10

FILED

SEP 26 2016

ZACK WALLACE, CIRCUIT CLERK

BY _____ DEFENDANTS

COMPLAINT
(JURY TRIAL DEMANDED)

William McGrew files this complaint for damages against Woodlands Rehabilitation and Healthcare Center, LLC formerly known as Trinity Mission Health and Rehab of Clinton, LLC and doing business as Trinity Mission Health and Rehab of Clinton. In support of his claims, Plaintiff states:

PARTIES

1. Plaintiff William McGrew is an adult citizen of Mississippi who resides in Hinds County at 439 West Northside Drive, Jackson, Mississippi 39206. Defendant Woodlands Rehabilitation and Healthcare Center, LLC is a Delaware limited liability company qualified to do business in Mississippi. This Defendant's principal office address appears to be 2723 Summer Oaks Drive, Bartlett, Tennessee 38134. This Defendant's registered agent for service of process is Corporation Service Company, 5760 I-55 North, Suite 150, Jackson, Mississippi 39211. Unknown Defendants 1-10 are individuals and entities whose identities are unknown and unknowable to the Plaintiff at this time and who may be liable for Plaintiff's injuries described below.

JURISDICTION, VENUE AND PROCEDURAL REQUIREMENTS

2. This Court has jurisdiction over the parties and over the subject matter of this lawsuit pursuant to Miss. Code Ann. § 9-7-81. This county is the proper venue for this lawsuit pursuant to Miss Code Ann. § 11-11-3(3) as the acts and omissions alleged herein occurred in Hinds County.

3. Plaintiff has provided notice of intent to sue pursuant to Miss. Code Ann. § 15-1-36(15).

4. Undersigned counsel has attached hereto a certificate pursuant to § 11-1-58(1)(b).

FACTS

5. In September 2015, Plaintiff underwent surgical amputation of the first and second toes of his left foot at Mississippi Baptist Medical Center following an injury to the foot.

6. Defendant operates a nursing and rehabilitation facility in Clinton, Mississippi known as Trinity Mission Health and Rehab of Clinton.

7. Defendant's facility admitted Plaintiff on September 15, 2014 for wound care on his left foot following surgery at Mississippi Baptist Medical Center.

8. During his admission to Defendant's facility, Defendant wholly failed to provide wound care to Plaintiff.

9. On September 28, 2014, Plaintiff left Defendant's facility by ambulance and returned to the emergency department at Mississippi Baptist Medical Center.

10. The medical staff at Mississippi Baptist Medical Center diagnosed Plaintiff with sepsis and dehiscence of the surgical wound with the presence of live maggots. Plaintiff also suffered

hypernatremia, severe protein calorie malnutrition and metabolic acidosis upon his presentation to the hospital.

11. Plaintiff remained at hospitalized for several weeks, much of that time in the intensive care unit. He underwent below the knee amputation of the left leg to address the infection in his foot. The persistent infection necessitated a revised above the knee amputation. After his hospitalization, Plaintiff was a resident of another long term care facility for several months.

12. Plaintiff's near-fatal infection has resulted in his total debilitation.

COUNT ONE: NURSING NEGLIGENCE

13. Defendant breached the applicable standards or care by:

- a. Failing to provide any wound care;
- b. Alternatively, failing to provide adequate wound care;
- c. Failing to properly assess Plaintiff's wound;
- d. Failing to provide proper nutrition and hydration;
- e. Failing to monitor and assess Plaintiff's condition;
- f. Failing to recognize the onset of sepsis and metabolic acidosis;
- g. Failing to transfer Plaintiff to a hospital in a timely manner; and
- h. Other acts of negligence to be shown at trial.

14. Defendant's breach of the standards of care proximately caused Plaintiff's injuries and damages described in this complaint.

DAMAGES

15. As a result of its negligence, Defendant is liable to Plaintiff for the following damages:

- a. Past and future medical expenses;
- b. Past and future pain and suffering;
- c. Past and future mental anguish and emotional distress;
- d. Any other category of compensatory damages available under the law and

supported by the evidence.

16. Defendant's conduct toward Plaintiff was grossly negligent and evidenced a willful, wanton or reckless disregard for the safety of other. Therefore, Plaintiff demands an award of punitive damages.

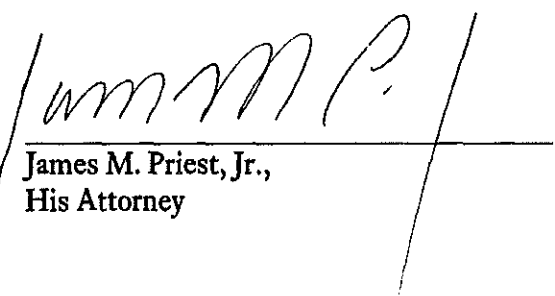
WHEREFORE, Plaintiff demands judgment for the damages described herein.

Dated: September 23, 2016

Respectfully submitted,

WILLIAM McGREW

By:


James M. Priest, Jr.,
His Attorney

Of counsel:

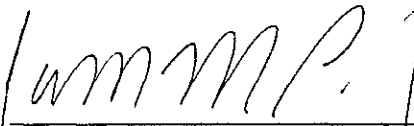
James M. Priest, Jr., MSB # 99352
Gill, Ladner & Priest, PLLC
344 Highway 51, Second Floor
Ridgeland, MS 39157
(601) 352-5700
jamie@glplawfirm.com

CERTIFICATE OF ATTORNEY

I, James M. Priest, Jr., one of the Plaintiff's attorneys, hereby certify that I have reviewed the facts of the case and have consulted with at least one expert qualified pursuant to the Mississippi Rules of Civil Procedure and the Mississippi Rules of Evidence who is qualified to give expert testimony as to standard of care or negligence and who I reasonably believe is knowledgeable in the relevant issues involved in this particular action, and that I have concluded on the basis of such review and consultation that there is a reasonable basis for the commencement/maintenance of this action.

SO CERTIFIED this 23rd day of September, 2016.

By:



Plaintiff's counsel

Case: 25CI1-16-cv-00547-TTG Document #: 2-1 Filed: 09/26/2016 Page 1 of 1

COVER SHEET**Civil Case Filing Form**(To be completed by Attorney/Party
Prior to Filing of Pleading)Mississippi Supreme Court
Administrative Office of CourtsForm AOC/01
(Rev 2009)

In the CIRCUIT

Court of HINDS

County --

FIRST

Judicial District

Origin of Suit (Place an "X" in one box only)

Initial Filing



Reinstated



Foreign Judgment Enrolled



Transfer from Other court



Other



Remanded



Reopened



Joining Suit/Action



Appeal

Plaintiff - Party(ies) Initially Bringing Suit Should Be Entered First - Enter Additional Plaintiffs on Separate Form

Individual McGrew

William

Last Name

First Name

Maiden Name, if applicable

M.I.

Jr/Sr/III/IV

☐ Check (x) if Individual Plaintiff is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style:
Estate of _____☐ Check (x) if Individual Plaintiff is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity:
D/B/A or Agency _____**Business**

Enter legal name of business, corporation, partnership, agency - If Corporation, indicate the state where incorporated

☐ Check (x) if Business Plaintiff is filing suit in the name of an entity other than the above, and enter below:
D/B/A _____

Address of Plaintiff 439 West Northside Drive, Jackson, MS 39206

Attorney (Name & Address) James M. Priest, Jr., Gill, Ladner & Priest, 344 Hwy 51, Ste 200, Ridgeland, MS 39157

MS Bar No. 99352

☐ Check (x) if Individual Filing Initial Pleading is NOT an attorneySignature of Individual Filing: **Defendant - Name of Defendant - Enter Additional Defendants on Separate Form**

Individual

Last Name

First Name

Maiden Name, if applicable

M.I.

Jr/Sr/III/IV

☐ Check (x) if Individual Defendant is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style:
Estate of _____☐ Check (x) if Individual Defendant is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity:
D/B/A or Agency _____**Business**

Woodlands Rehabilitation and Healthcare Center, LLC

Enter legal name of business, corporation, partnership, agency - If Corporation, indicate the state where incorporated

☐ Check (x) if Business Defendant is acting in the name of an entity other than the above, and enter below:
D/B/A _____

Attorney (Name & Address) - If Known

MS Bar No.

Damages Sought:

Compensatory \$ _____

Punitive \$ _____

☐ Check (x) if child support is contemplated as an issue in this suit.*

*If checked, please submit completed Child Support Information Sheet with this Cover Sheet

Nature of Suit (Place an "X" in one box only)

- ☐ Child Custody/Visitation
☐ Child Support
☐ Contempt
☐ Divorce: Fault
☐ Divorce: Irreconcilable Diff.
☐ Domestic Abuse
☐ Emancipation
☐ Modification
☐ Paternity
☐ Property Division
☐ Separate Maintenance
☐ Termination of Parental Rights
☐ UIFSA (eff 7/1/97; formerly URESA)
☐ Other _____

- ☐ Administrative Agency
☐ County Court
☐ Hardship Petition (Driver License)
☐ Justice Court
☐ MS Dept Employment Security
☐ Worker's Compensation
☐ Other _____

- ☐ Accounting (Business)
☐ Business Dissolution
☐ Debt Collection
☐ Employment
☐ Foreign Judgment
☐ Garnishment
☐ Replevin
☐ Other _____

- ☐ Accounting (Probate)
☐ Birth Certificate Correction
☐ Commitment
☐ Conservatorship
☐ Guardianship
☐ Heirship
☐ Intestate Estate
☐ Minor's Settlement
☐ Monument of Title
☐ Name Change
☐ Testate Estate
☐ Will Contest
☐ Other _____

- ☐ Adoption - Contested
☐ Adoption - Uncontested
☐ Consent to Abortion Minor
☐ Removal of Minority
☐ Other _____

- ☐ Elections
☐ Expungement
☐ Habeas Corpus
☐ Post Conviction Relief/Prisoner
☐ Other _____

- ☐ Breach of Contract
☐ Installment Contract
☐ Insurance
☐ Specific Performance
☐ Other _____

- ☐ Bond Validation
☐ Civil Forfeiture
☐ Declaratory Judgment
☐ Injunction or Restraining Order
☐ Other _____

- ☐ Adverse Possession
☐ Ejectment
☐ Eminent Domain
☐ Eviction
☐ Judicial Foreclosure
☐ Lien Assertion
☐ Partition
☐ Tax Sale: Confirm/Cancel
☐ Title Boundary or Easement
☐ Other _____

- ☐ Bad Faith
☐ Fraud
☐ Loss of Consortium
☐ Malpractice - Legal
☒ Malpractice - Medical
☐ Mass Tort
☐ Negligence - General
☐ Negligence - Motor Vehicle
☐ Product Liability
☐ Subrogation
☐ Wrongful Death
☐ Other _____

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IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

WILLIAM McGREW

PLAINTIFF

v.

Civil Action No. 16-547

WOODLANDS REHABILITATION
AND HEALTHCARE CENTER, LLC formerly
known as TRINITY MISSION HEALTH
AND REHAB OF CLINTON, LLC doing business as
TRINITY MISSION HEALTH AND REHAB OF CLINTON
and UNKNOWN DEFENDANTS 1-10

DEFENDANTS

SUMMONS

THE STATE OF MISSISSIPPI

TO: Corporation Service Company, Registered Agent for
Woodlands Rehabilitation and Healthcare Center
5760 I-55 North, Suite 150
Jackson, Mississippi 39211

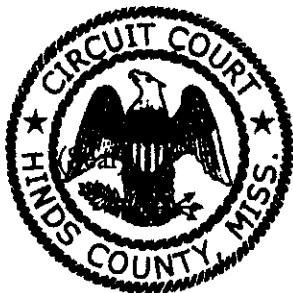
NOTICE TO DEFENDANT(S)

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND
YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.

You are required to mail or hand-deliver a copy of a written response to the Complaint to James M. Priest, Jr., the attorney for the Plaintiff, whose street address is Gill, Ladner & Priest, PLLC, 344 Highway 51, Suite 200, Ridgeland, Mississippi 39157. Your response must be mailed or delivered within thirty (30) days from the date of delivery of this summons and complaint or a judgment by default will be entered against you for the money or other things demanded in the complaint.

You must also file the original of your response with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this 26 day of September, 2016.



ZACK WALLACE,
CIRCUIT CLERK

By: [Signature]
Deputy Clerk

Case: 25CI1:16-cv-00547-TTG Document #: 4 Filed: 01/19/2017 Page 1 of 2

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

WILLIAM McGREW

PLAINTIFF

v.

Civil Action No. 16-847

WOODLANDS REHABILITATION
AND HEALTHCARE CENTER, LLC formerly
known as TRINITY MISSION HEALTH
AND REHAB OF CLINTON, LLC doing business as
TRINITY MISSION HEALTH AND REHAB OF CLINTON
and UNKNOWN DEFENDANTS 1-10

DEFENDANTS

SUMMONS

THE STATE OF MISSISSIPPI

TO: Corporation Service Company, Registered Agent for
Woodlands Rehabilitation and Healthcare Center
5760 I-55 North, Suite 150
Jackson, Mississippi 39211

NOTICE TO DEFENDANT(S)

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND
YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.

You are required to mail or hand-deliver a copy of a written response to the Complaint to
James M. Priest, Jr., the attorney for the Plaintiff, whose street address is Gill, Ladner & Priest,
PLLC, 344 Highway 51, Suite 200, Ridgeland, Mississippi 39157. Your response must be mailed
or delivered within thirty (30) days from the date of delivery of this summons and complaint or a
judgment by default will be entered against you for the money or other things demanded in the
complaint.

You must also file the original of your response with the Clerk of this Court within a
reasonable time afterward.

Issued under my hand and the seal of said Court, this 26 day of September, 2016.

ZACK WALLACE,
CIRCUIT CLERK

ATTEST A TRUE COPY

By: [Signature]

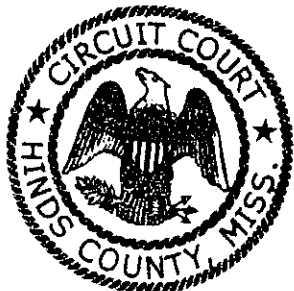
Deputy Clerk

SEP 26 2016

ZACK WALLACE, CIRCUIT CLERK

BY [Signature]

D.C.



Case: 25C11:16-cv-00547-TTG Document #: 4 Filed: 01/19/2017 Page 2 of 2
 Corporation Service Company
 Registered Agent for
 Woodlands Rehabilitation Healthcare Center

PROOF OF SERVICE -- SUMMONS

Process Server

Name of Person or Entity Served

I, the undersigned process server, served the summons and complaint upon the person or entity named above in the manner set forth below:

FIRST CLASS MAIL AND ACKNOWLEDGMENT SERVICE By mailing (by first class mail, postage prepaid) on the date stated in the attached Notice, copies to the person served, together with copies of the form of notice and acknowledgment and return envelope, postage prepaid, addressed to sender. (Must attach acknowledgment of receipt pursuant to M.R.C.P. Form 1B).

X PERSONAL SERVICE. I personally delivered copies to Angela Dees on the 9th day of January, 2016, where I found said person(s) in Hinds county of the State of MS.

RESIDENCE SERVICE. After exercising reasonable diligence I was unable to deliver copies to said person within _____ county, _____. I served the summons and complaint on the _____ day of _____, 2016, at the usual place of abode of said person by leaving a true copy of the summons and complaint with _____, who is the _____, a member of the family of the person served above the age of sixteen years and willing to receive the summons and complaint, and thereafter on the _____ day of _____, 2016 I mailed (by first class mail, postage prepaid) copies to the person served at his or her usual place of abode where the copies were left.

CERTIFIED MAIL SERVICE. By mailing (via first class mail, postage prepaid, requiring a return receipt) copies to the person served. (Attach signed return receipt or other evidence of actual delivery to the person served.)

At the time of service I was at least 18 years of age and not a party to this action.

Fee for service: \$ 0

Process server must list below:

Name Kimberly Burney
 Telephone No. 344 Hwy 51, Ste 200
Ridgeland, MS 39157

Address: 601-352-5700

STATE OF Mississippi
 COUNTY OF Madison

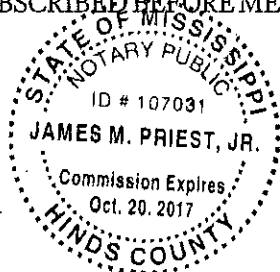
Personally appeared before me the undersigned authority in and for the state and county aforesaid, the within named Kimberly Burney who, being first duly sworn by me, states on oath that the matters and facts set forth in the above and foregoing "Proof of Service - Summons" are true and correct as therein stated.

Kimberly Burney
 PROCESS SERVER

SWORN TO AND SUBSCRIBED BEFORE ME this, the 9th day of January, 2016.

My Commission Expires:

10-20-2017



James M. Priest, Jr.
 NOTARY PUBLIC

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IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF
HINDS COUNTY, MISSISSIPPI

WILLIAM McGREW

PLAINTIFF

vs.

Cause No.: 16-547

WOODLANDS REHABILITATION AND
HEALTHCARE CENTER, LLC formerly
known as TRINITY MISSION HEALTH
AND REHAB OF CLINTON, LLC doing
business as TRINITY MISSION HEALTH
AND REHAB OF CLINTON and
UNKNOWN DEFENDANTS 1-10

DEFENDANTS

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that WILLIAM E. GRUBBS and ANDREW S. BULLOCK, of
the law firm of Quintairos, Prieto, Wood & Boyer, P.A., hereby enters their appearances for
Defendant WOODLANDS REHABILITATION AND HEALTHCARE CENTER, LLC.

Respectfully submitted, this 8th day of February, 2017.

QUINTAIROS, PRIETO, WOOD & BOYER, P. A.
Attorneys for Defendant, *Woodlands
Rehabilitation and Healthcare Center, LLC*



WILLIAM E. GRUBBS (MSB # 100049)
ANDREW S. BULLOCK (MSB #105101)
215 South Monroe Street, Suite 600
Tallahassee, Florida 32301
Tel: (850) 412-1042
Fax: (850) 412-1043
Email: wgrubbs@qpwbllaw.com
andrew.bullock@qpwbllaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, the undersigned attorney for Defendant, Woodlands Rehabilitation and Healthcare Center, LLC, in the above-styled and numbered cause, that I have, this 8th day of February, 2017, served a true and correct copy of the above and foregoing *Notice of Appearance* via the Mississippi Electronic Courts (MEC) filing system upon all counsel of record.



ANDREW S. BULLOCK (MSB #105101)

Case: 25Cl1:16-cv-00547-TTG Document #: 6 Filed: 02/08/2017 Page 1 of 2

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF
HINDS COUNTY, MISSISSIPPI

WILLIAM McGREW

PLAINTIFF

vs.

Cause No.: 16-547

WOODLANDS REHABILITATION AND
HEALTHCARE CENTER, LLC formerly
known as TRINITY MISSION HEALTH
AND REHAB OF CLINTON, LLC doing
business as TRINITY MISSION HEALTH
AND REHAB OF CLINTON and
UNKNOWN DEFENDANTS 1-10

DEFENDANTS

MOTION TO DISMISS

COMES NOW, Defendant WOODLANDS REHABILITATION AND HEALTHCARE CENTER, LLC, by and through its undersigned counsel, and in response to Plaintiff's Complaint files its Motion to Dismiss. In support of its motion, Defendant attaches its brief containing arguments and authorities. Defendant respectfully requests an order be entered which dismisses Plaintiff's Complaint.

Respectfully submitted, this 8th day of February, 2017.

QUINTAIROS, PRIETO, WOOD & BOYER, P. A.
Attorneys for Defendant, *Woodlands
Rehabilitation and Healthcare Center, LLC*



WILLIAM E. GRUBBS (MSB # 100049)
ANDREW S. BULLOCK (MSB #105101)
215 South Monroe Street, Suite 600
Tallahassee, Florida 32301
Tel: (850) 412-1042
Fax: (850) 412-1043
Email: wgrubbs@qpwbllaw.com
andrew.bullock@qpwbllaw.com

Case: 25CI1:16-cv-00547-TTG Document #: 6 Filed: 02/08/2017 Page 2 of 2

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, the undersigned attorney for Defendant, Woodlands Rehabilitation and Healthcare Center, LLC, in the above-styled and numbered cause, that I have, this 8th day of February, 2017, served a true and correct copy of the above and foregoing ***Motion to Dismiss*** via the Mississippi Electronic Courts (MEC) filing system upon all counsel of record.



ANDREW S. BULLOCK (MSB #105101)

Case: 25CI1:16-cv-00547-TTG Document #: 7 Filed: 02/08/2017 Page 1 of 3

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF
HINDS COUNTY, MISSISSIPPI

WILLIAM McGREW

PLAINTIFF

vs.

Cause No.: 16-547

WOODLANDS REHABILITATION AND
HEALTHCARE CENTER, LLC formerly
known as TRINITY MISSION HEALTH
AND REHAB OF CLINTON, LLC doing
business as TRINITY MISSION HEALTH
AND REHAB OF CLINTON and
UNKNOWN DEFENDANTS 1-10

DEFENDANTS

**DEFENDANT WOODLANDS REHABILITATION AND HEALTHCARE
CENTER, LLC'S BRIEF IN SUPPORT OF ITS MOTION TO DISMISS**

COMES NOW, Defendant WOODLANDS REHABILITATION AND HEALTHCARE
CENTER, LLC, by and through its undersigned counsel, and files its Brief in Support of its
Motion to Dismiss, and states:

I. Introduction

On September 23, 2016, Plaintiff sent correspondence to Defendant indicating that
Plaintiff was intending to file suit against Defendant. Said correspondence is attached as **Exhibit**
A. On September 26, 2016, Plaintiff filed his Complaint in the above-styled and numbered
action. Plaintiff's Complaint, which was date-stamped by the Clerk, is attached as **Exhibit B**.
Plaintiff's Complaint is a one-count pleading which seeks damages against Defendant. The
pleading's sole count is entitled "Nursing Negligence". *See Exhibit B*.

Since Defendant is a health care provider, as contemplated within Miss. Code Ann. 15-1-
36, and because Plaintiff appears to have filed suit against Defendant alleging professional
negligence, Defendant was entitled to a statutory pre-suit notice prior to Plaintiff's filing of his
Complaint. Defendant affirmatively asserts that Plaintiff's ante litem correspondence sent to

Defendant on September 23, 2016 fails to qualify as a proper pre-suit notice per Miss. Code Ann. 15-1-36 (15). As such, Defendant moves this Court to enter an order which dismisses the instant action for Plaintiff's failure to comply with the pre-suit notice provision of the statute.

II. A correspondence dated and mailed three days prior to a medical malpractice action being filed does not sufficiently provide notice to a Defendant.

The mandatory pre-suit notice provision can be found in Miss. Code Ann. 15-1-36 (15).

At the outset, Miss. Code Ann. 15-1-36 (15) states:

No action based upon the health care provider's professional negligence may be begun unless the defendant has been given at least sixty (60) days' prior written notice of the intention to begin the action.

When examining the *contents* of an ante litem notice for medical malpractice, Mississippi courts will apply a substantial compliance standard to that plaintiff's correspondence. Arceo v. Tolliver, 19 So.3d 67 (2009). In determining whether that same plaintiff's correspondence gave its defendant sixty (60) days' prior notice of an adverse suit for medical malpractice being filed, Mississippi courts will require strict compliance. Thomas v. Warden, 999 So.2d 842 (2008). In Thomas, a plaintiff sent pre-suit notice letters on September 6, 2005 and filed his lawsuit on November 4, 2005 (i.e., fifty-nine (59) days later). In examining the plaintiff's inability to give the defendants sixty (60) days' notice, the Court affirmed the trial court's dismissal and held that the "lawsuit was not lawfully filed, and (that) it (was) of no legal effect." *Id.* at 846.

In the instant case, Plaintiff did not give Defendant sixty (60) days to consider his pre-suit notice. Plaintiff's correspondence, which was sent to Defendant via certified USPS mail, is dated September 23, 2016. A tracking review on the USPS website confirms that Plaintiff's letter was mailed on September 23, 2016. A printout of the USPS tracking review is attached as **Exhibit C**. Sixty (60) days after the mailing of Plaintiff's ante litem correspondence would be

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Tuesday, November 22, 2016, so Plaintiff would have needed to file his lawsuit at some point after that date. Instead, Plaintiff filed much earlier.

III. Relief sought

As discussed, Plaintiff barely gave Defendant sixty (60) hours, let alone sixty (60) days, to consider his pre-suit notice before he began the instant action. As the examination of whether a defendant was given a sixty days' notice prior to being sued for medical malpractice is a statutory provision which must be strictly construed by the Court, Defendant moves for the entry of an order which dismisses Plaintiff's instant action.

Respectfully submitted, this 8th day of February, 2017.

QUINTAIROS, PRIETO, WOOD & BOYER, P. A.
Attorneys for Defendant, *Woodlands
Rehabilitation and Healthcare Center, LLC*



WILLIAM E. GRUBBS (MSB # 100049)
ANDREW S. BULLOCK (MSB #105101)
215 South Monroe Street, Suite 600
Tallahassee, Florida 32301
Tel: (850) 412-1042
Fax: (850) 412-1043
Email: wgrubbs@qpwbllaw.com
andrew.bullock@qpwbllaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, the undersigned attorney for Defendant, Woodlands Rehabilitation and Healthcare Center, LLC, in the above-styled and numbered cause, that I have, this 8th day of February, 2017, served a true and correct copy of the above and foregoing *Brief in Support of Defendant Woodland's Motion to Dismiss* via the Mississippi Electronic Courts (MEC) filing system upon all counsel of record.



ANDREW S. BULLOCK (MSB #105101)

Case: 25CI1:16-cv-00547-TTG Document #: 7-1 Filed: 02/08/2017 Page 1 of 2

GILL, LADNER & PRIEST, PLLC
Attorneys at Law

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(601) 352-5353 f
jamie@glplawfirm.com

September 23, 2016

Via Certified Mail-Return Receipt Requested
Item No. 7009 0080 0001 1782 9200

Via Certified Mail-Return Receipt Requested
Item No. 7009 0080 0001 1782 9217

Greg Garvin, Administrator
Trinity Mission Health & Rehab of Clinton
102 Woodchase Park Drive
Clinton, Mississippi 39056

Woodlands Rehabilitation and
Healthcare Center, LLC
2723 Summer Oaks Drive
Bartlett, Tennessee 38134

Re Notice of Intent to File Lawsuit—Miss. Code Ann. § 15-1-36(15)

My Client: William Calvin McGrew
Social Security No. 587-18-7696
Date of Birth: March 21, 1945
Date of Loss: September 28, 2014-present

Greetings:

William McGrew has hired me to represent him in a personal injury claim against Woodlands Rehabilitation and Healthcare Center, LLC and Trinity Mission Health & Rehab of Clinton. This letter will serve as Mr. McGrew's notice of intent to file suit.

Your facility admitted Mr. McGrew on September 15, 2014 for wound care following surgical amputation of the first and second toes of his left foot. On September 28, 2014, Mississippi Baptist Medical Center admitted Mr. McGrew from your facility through its emergency department. At Baptist, Mr. McGrew was diagnosed with sepsis and dehiscence of the surgical wound with the presence of live maggots. At the time he was admitted to Baptist he also suffered hypernatremia, severe protein calorie malnutrition and metabolic acidosis.

Mr. McGrew remained at Baptist for several weeks. He underwent below the knee amputation of the left leg to address the infection in his foot. The persistent infection necessitated a revised above the knee amputation. After his discharge from Baptist, Mr. McGrew was a resident of another long-term care facility for several months.

Mr. McGrew's near-fatal and totally debilitating infection resulted from substandard care provided by your facility. Your facility breached the applicable standards of care by failing to provide adequate wound care, failing to give Mr. McGrew adequate hydration and nutrition, failing to properly monitor and assess his condition and failing to timely transfer him to an acute care facility. The lawsuit we will file will seek damages for past and future medical expenses, past

Case: 25Cl1:16-cv-00547-TTG Document #: 7-1 Filed: 02/08/2017 Page 2 of 2
September 23, 2016
Page 2

and future pain and suffering, past and future mental anguish and emotional distress and punitive damages.

Sincerely yours,



James M. Priest, Jr.

Cc: William McGrew c/o Lee Jackson
William Grubbs, Esq.

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IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

WILLIAM MCGREW

PLAINTIFF

v.

Civil Action No. 16-547

WOODLANDS REHABILITATION AND
HEALTHCARE CENTER, LLC formerly
known as TRINITY MISSION HEALTH
AND REHAB OF CLINTON, LLC doing
business as TRINITY MISSION HEALTH
AND REHAB OF CLINTON and
UNKNOWN DEFENDANTS 1-10

FILED

SEP 26 2016

ZACK WALLACE, CIRCUIT CLERK

BY _____ DEFENDANTS

COMPLAINT
(JURY TRIAL DEMANDED)

William McGrew files this complaint for damages against Woodlands Rehabilitation and Healthcare Center, LLC formerly known as Trinity Mission Health and Rehab of Clinton, LLC and doing business as Trinity Mission Health and Rehab of Clinton. In support of his claims, Plaintiff states:

PARTIES

1. Plaintiff William McGrew is an adult citizen of Mississippi who resides in Hinds County at 439 West Northside Drive, Jackson, Mississippi 39206. Defendant Woodlands Rehabilitation and Healthcare Center, LLC is a Delaware limited liability company qualified to do business in Mississippi. This Defendant's principal office address appears to be 2723 Summer Oaks Drive, Bartlett, Tennessee 38134. This Defendant's registered agent for service of process is Corporation Service Company, 5760 I-55 North, Suite 150, Jackson, Mississippi 39211. Unknown Defendants 1-10 are individuals and entities whose identities are unknown and unknowable to the Plaintiff at this time and who may be liable for Plaintiff's injuries described below.

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Case: 25CI1:16-cv-00547-TTG Document #: 2 Filed: 09/26/2016 Page 2 of 5

JURISDICTION, VENUE AND PROCEDURAL REQUIREMENTS

2. This Court has jurisdiction over the parties and over the subject matter of this lawsuit pursuant to Miss. Code Ann. § 9-7-81. This county is the proper venue for this lawsuit pursuant to Miss Code Ann. § 11-11-3(3) as the acts and omissions alleged herein occurred in Hinds County.

3. Plaintiff has provided notice of intent to sue pursuant to Miss. Code Ann. § 15-1-36(15).

4. Undersigned counsel has attached hereto a certificate pursuant to § 11-1-58(1)(b).

FACTS

5. In September 2015, Plaintiff underwent surgical amputation of the first and second toes of his left foot at Mississippi Baptist Medical Center following an injury to the foot.

6. Defendant operates a nursing and rehabilitation facility in Clinton, Mississippi known as Trinity Mission Health and Rehab of Clinton.

7. Defendant's facility admitted Plaintiff on September 15, 2014 for wound care on his left foot following surgery at Mississippi Baptist Medical Center.

8. During his admission to Defendant's facility, Defendant wholly failed to provide wound care to Plaintiff.

9. On September 28, 2014, Plaintiff left Defendant's facility by ambulance and returned to the emergency department at Mississippi Baptist Medical Center.

10. The medical staff at Mississippi Baptist Medical Center diagnosed Plaintiff with sepsis and dehiscence of the surgical wound with the presence of live maggots. Plaintiff also suffered

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Case: 25CI1:16-cv-00547-TTG Document #: 2 Filed: 09/26/2016 Page 3 of 5

hypernatremia, severe protein calorie malnutrition and metabolic acidosis upon his presentation to the hospital.

11. Plaintiff remained at hospitalized for several weeks, much of that time in the intensive care unit. He underwent below the knee amputation of the left leg to address the infection in his foot. The persistent infection necessitated a revised above the knee amputation. After his hospitalization, Plaintiff was a resident of another long term care facility for several months.

12. Plaintiff's near-fatal infection has resulted in his total debilitation.

COUNT ONE: NURSING NEGLIGENCE

13. Defendant breached the applicable standards of care by:

- a. Failing to provide any wound care;
- b. Alternatively, failing to provide adequate wound care;
- c. Failing to properly assess Plaintiff's wound;
- d. Failing to provide proper nutrition and hydration;
- e. Failing to monitor and assess Plaintiff's condition;
- f. Failing to recognize the onset of sepsis and metabolic acidosis;
- g. Failing to transfer Plaintiff to a hospital in a timely manner; and
- h. Other acts of negligence to be shown at trial.

14. Defendant's breach of the standards of care proximately caused Plaintiff's injuries and damages described in this complaint.

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Case: 25CI1:16-cv-00547-TTG Document #: 2 Filed: 09/26/2016 Page 4 of 5

DAMAGES

15. As a result of its negligence, Defendant is liable to Plaintiff for the following damages:

- a. Past and future medical expenses;
- b. Past and future pain and suffering;
- c. Past and future mental anguish and emotional distress;
- d. Any other category of compensatory damages available under the law and

supported by the evidence.

16. Defendant's conduct toward Plaintiff was grossly negligent and evidenced a willful, wanton or reckless disregard for the safety of other. Therefore, Plaintiff demands an award of punitive damages.

WHEREFORE, Plaintiff demands judgment for the damages described herein.

Dated: September 23, 2016

Respectfully submitted,

WILLIAM McGREW

By:


James M. Priest, Jr.,
His Attorney

Of counsel:

James M. Priest, Jr., MSB # 99352
Gill, Ladner & Priest, PLLC
344 Highway 51, Second Floor
Ridgeland, MS 39157
(601) 352-5700
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Case: 25CI1:16-cv-00547-TTG Document #: 7-2 Filed: 02/08/2017 Page 5 of 5

Case: 25CI1:16-cv-00547-TTG Document #: 2 Filed: 09/26/2016 Page 5 of 5

CERTIFICATE OF ATTORNEY

I, James M. Priest, Jr., one of the Plaintiff's attorneys, hereby certify that I have reviewed the facts of the case and have consulted with at least one expert qualified pursuant to the Mississippi Rules of Civil Procedure and the Mississippi Rules of Evidence who is qualified to give expert testimony as to standard of care or negligence and who I reasonably believe is knowledgeable in the relevant issues involved in this particular action, and that I have concluded on the basis of such review and consultation that there is a reasonable basis for the commencement/maintenance of this action.

SO CERTIFIED this 23rd day of September, 2016.

By:



Plaintiff's counsel

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Postal Product:

Features:
Certified Mail™

DATE & TIME	STATUS OF ITEM	LOCATION
September 26, 2016 , 4:17 pm	Delivered, Left with Individual	CLINTON, MS 39056

Your item was delivered to an individual at the address at 4:17 pm on September 26, 2016 in CLINTON, MS 39056

September 26, 2016 , 9:07 am	Out for Delivery	CLINTON, MS 39056
September 26, 2016 , 8:49 am	Sorting Complete	CLINTON, MS 39056
September 26, 2016 , 7:06 am	Arrived at Unit	CLINTON, MS 39056
September 25, 2016 , 8:51 pm	Departed USPS Facility	JACKSON, MS 39201
September 23, 2016 , 7:38 pm	Arrived at USPS Facility	JACKSON, MS 39201

Tracking Number: **70090080000117829217**Updated Delivery Day: **Monday, September 26, 2016**

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Page 2 of 2

Case: 25CI1:16-cv-00547-TTG Document #: 7-3 Filed: 02/08/2017 Page 2 of 2

Product & Tracking Information

Postal Product:

Features:
Certified Mail™

DATE & TIME	STATUS OF ITEM	LOCATION
September 26, 2016, 10:11 am	Delivered, Front Desk/Reception	MEMPHIS, TN 38134

Your item was delivered to the front desk or reception area at 10:11 am on September 26, 2016 in MEMPHIS, TN 38134.

September 26, 2016, 7:15 am	Arrived at Unit	MEMPHIS, TN 38134
September 26, 2016, 12:37 am	Departed USPS Facility	MEMPHIS, TN 38101
September 24, 2016, 8:36 am	Arrived at USPS Facility	MEMPHIS, TN 38101
September 23, 2016, 8:50 pm	Departed USPS Facility	JACKSON, MS 39201
September 23, 2016, 7:38 pm	Arrived at USPS Facility	JACKSON, MS 39201

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Case: 25CI1:16-cv-00547-TTG Document #: 8 Filed: 02/08/2017 Page 1 of 6

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF
HINDS COUNTY, MISSISSIPPI

WILLIAM McGREW

PLAINTIFF

vs.

Cause No.: 16-547

WOODLANDS REHABILITATION AND
HEALTHCARE CENTER, LLC formerly
known as TRINITY MISSION HEALTH
AND REHAB OF CLINTON, LLC doing
business as TRINITY MISSION HEALTH
AND REHAB OF CLINTON and
UNKNOWN DEFENDANTS 1-10

DEFENDANTS

ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW, Defendant WOODLANDS REHABILITATION AND HEALTHCARE
CENTER, LLC, by and through its undersigned counsel, and in response to Plaintiff's Complaint
files its Answer and Affirmative Defenses.

ANSWER

1. Defendant admits that it is a limited liability company, incorporated in the State of Delaware. The other allegations against Defendant contained in Paragraph 1 are denied as phrased. As for the remaining allegations contained in Paragraph 1, Defendant is without sufficient information to admit or deny and therefore denies same and demands strict proof thereof.
2. Defendant admits that venue and jurisdiction are proper in the First Judicial District of Hinds County, Mississippi.
3. The allegations contained within Paragraph 3 are denied, and therefore Plaintiff's Complaint should be dismissed.
4. The allegations contained within Paragraph 4 are denied.

5. Defendant admits that Plaintiff's medical records contain certain information provided by Plaintiff's medical providers, and that said documentation speaks for itself. As for the remaining allegations contained in Paragraph 5, Defendant is without sufficient information to admit or deny and therefore denies same and demands strict proof thereof.
6. The allegations contained within Paragraph 6 are denied as phrased.
7. Defendant admits that Plaintiff was admitted to its facility on September 15, 2104. All other allegations contained in Paragraph 7 are denied.
8. The allegations contained within Paragraph 8 are denied.
9. Defendant admits that Plaintiff was discharged from its facility on September 28, 2014, and that Plaintiff was transported from Defendant's facility by emergency medical technicians employed by American Medical Response. All other allegations contained in Paragraph 9 are denied.
10. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 10, and therefore denies same and demands strict proof thereof.
11. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 11, and therefore denies same and demands strict proof thereof.
12. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 12, and therefore denies same and demands strict proof thereof.
13. The allegations contained within Paragraph 13, and all subparagraphs thereto, are denied.
14. The allegations contained within Paragraph 14 are denied.

15. The allegations contained within Paragraph 15, and all subparagraphs thereto, are denied.

16. The allegations contained within Paragraph 16 are denied.

Defendant denies all of the allegations contained in the “WHEREFORE” paragraph of Plaintiff’s Complaint, and affirmatively asserts that Plaintiff is not entitled to any relief whatsoever in this action.

AFFIRMATIVE DEFENSES

1. Plaintiff’s Complaint should be dismissed for Plaintiff’s failure to comply with Miss. Code Ann. § 15-1-36(15).
2. Defendant claims protection of any and all applicable statutes of limitations.
3. Any damages or injuries suffered by Plaintiff, if any, were solely and proximately caused by persons over whom Defendant exercised no responsibility or control and for whom Defendant is not liable.
4. Defendant pleads any failure by Plaintiff to exhaust administrative remedies.
5. Defendant should be dismissed for Plaintiff’s failure to properly serve process pursuant to Rule 4 of the Mississippi Rules of Civil Procedure.
6. Plaintiff’s injuries, if any, were the result of the natural progression of Plaintiff’s disease process or the deterioration that is naturally a part of the aging process and were unrelated to Defendant’s care and treatment of Plaintiff.
7. Plaintiff’s injuries, if any, were caused in whole or in part by the negligence of third-party health care providers unrelated to Defendant and/or unrelated to Defendant’s care and treatment of Plaintiff.

8. Defendant asserts that it is entitled to a set-off for all sums paid, payable, or due to be paid to or on behalf of Plaintiff from any source considered to be a collateral source, including, but not limited to, health or accident insurance companies, Social Security Administration, or those whose acts or omissions caused or contributed to Plaintiff's damages.
9. Defendant asserts that it is entitled to a set off for any sums paid by any other alleged tortfeasor as payment or settlement of claims arising from the alleged events that are the subject of Plaintiff's Complaint.
10. Defendant asserts that it is entitled to a set off for any past awards, verdicts, settlements, disability ratings, disability payments, Medicare payments, Medicaid payments, or any other awarded income pertaining to Plaintiff's claim or for any of the damages asserted in Plaintiff's Complaint.
11. To the extent permitted by law, Defendant invokes the limitation of liability as provided for and in Miss. Code. Ann. § 85-5-7.
12. The injuries and damages complained of herein are the proximate result of the intervening/superseding acts of others for whom Defendant is not liable and which operate to relieve Defendant from any liability for any of the allegations contained in Plaintiff's Complaint.
13. Defendant denies that Plaintiff is entitled to punitive damages or any relief whatsoever as to the claimant, and Defendant would affirmatively plead: Defendant, its agents, servants and employees, have not at anytime acted with malice, committed any gross or reckless negligence which evinces willful or intentional or reckless disregard for the rights or safety of Plaintiff or any of them; and in all respects and on

all occasions complained of, Defendant, its agents, servants and employees have acted in good faith and fair dealings. An award of punitive damages in this arbitration would amount to a deprivation of property without due process of law in violation of the 5th and 14th Amendments to the United States Constitution and Section 14 of the Mississippi Constitution; the criteria used for determining whether and in what amount punitive damages may be awarded are impermissibly vague, imprecise, and inconsistent; and are, therefore, a violation of the Due Process Clause of the 5th and 14th Amendment to the Constitution of the United States; An award of punitive damages would amount to an excessive fine in violation of the Constitution of the United States of America and of Section 28 of the Mississippi Constitution.

14. Some of Plaintiff's claims are barred by doctrines and waivers, including estoppel and/or laches and/or ratification.
15. Defendant breached no legal duty owing to Plaintiff, or any other plaintiff and did not cause Plaintiff or any other plaintiff to sustain any injuries or damages whatsoever. Defendant contends that it is not liable for any damages of any type whatsoever to Plaintiff, or any of them, and demands that Plaintiff's Complaint be dismissed with costs adjudged against Plaintiff.

Respectfully submitted, this 8th day of February, 2017.

QUINTAIROS, PRIETO, WOOD & BOYER, P. A.
Attorneys for Defendant, *Woodlands
Rehabilitation and Healthcare Center, LLC*



WILLIAM E. GRUBBS (MSB # 100049)
ANDREW S. BULLOCK (MSB #105101)
215 South Monroe Street, Suite 600
Tallahassee, Florida 32301

Case: 25CI1:16-cv-00547-TTG Document #: 8 Filed: 02/08/2017 Page 6 of 6

Tel: (850) 412-1042

Fax: (850) 412-1043

Email: wgrubbs@qpwbllaw.com

andrew.bullock@qpwbllaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, the undersigned attorney for Defendant, Woodlands Rehabilitation and Healthcare Center, LLC, in the above-styled and numbered cause, that I have, this 8th day of February, 2017, served a true and correct copy of the above and foregoing *Answer and Affirmative Defenses* via the Mississippi Electronic Courts (MEC) filing system upon all counsel of record.



ANDREW S. BULLOCK (MSB #105101)

Case: 25Cl1:16-cv-00547-TTG Document #: 9 Filed: 02/08/2017 Page 1 of 2

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF
HINDS COUNTY, MISSISSIPPI**

WILLIAM MCGREW

PLAINTIFF

VS.

CAUSE NO.: 16-547

**WOODLAND REHABILITATION AND
HEALTHCARE CENTER, LLC former known
As TRINITY MISSION HEALTH & REHAB
OF CLINTON, LLC doing business as TRINITY
MISSION HEALTH & REHAB OF CLINTON and
UNKNOWN DEFENDANTS 1-10**

DEFENDANTS

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that WILLIAM E. GRUBBS of the law firm of Quintairos, Prieto, Wood & Boyer, P.A., hereby enters his appearance for Defendants, WOODLAND REHABILITATION AND HEALTHCARE CENTER, LLC formerly known As TRINITY MISSION HEALTH & REHAB OF CLINTON, LLC doing business as TRINITY MISSION HEALTH & REHAB OF CLINTON.

RESPECTFULLY SUBMITTED this the 8th day of February, 2017.

QUINTAIROS, PRIETO, WOOD & BOYER, P.A.

/s/ WILLIAM E. GRUBBS

BY: _____

WILLIAM E. GRUBBS (MBN# 10049)

215 South Monroe Street, Suite 600

Tallahassee, Florida 32301

Telephone: 850-412-1042

Facsimile: 850-412-1043

Email: wgrubbs@qpwbllaw.com

Attorney for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, the undersigned attorney for Defendant, Woodlands Rehabilitation and Healthcare Center, LLC, et. al. in the above-styled and numbered cause, that I have, this 8th day of February, 2017, served a true and correct copy of the above and foregoing *Notice of Appearance* via the Mississippi Electronic Courts (MEC) filing system upon all counsel of record.

/s/ WILLIAM E. GRUBBS

Attorney at Law

Case: 25CI1:16-cv-00547-TTG Document #: 10 Filed: 02/20/2017 Page 1 of 2

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

WILLIAM McGREW

PLAINTIFF

v.

Case No. 25CI1:16-cv-00547-TTG

WOODLANDS REHABILITATION AND
HEALTHCARE CENTER, LLC, *et al.*

DEFENDANTS

RESPONSE IN OPPOSITION TO MOTION TO DISMISS

The Court should deny Defendant's Motion to Dismiss [MEC # 6] because Plaintiff's counsel's letter of May 20, 2015 to Defendant provided suffice notice of intent to file this suit as required by Miss. Code Ann. § 15-1-36(15). Plaintiff's position is set forth fully in the accompanying memorandum.

Plaintiff submits these exhibits in support of his position:

1. Exhibit A: September 23, 2016 letter from James M. Priest, Jr.
2. Exhibit B: May 20, 2015 letter from James M. Priest, Jr. and return receipt.
3. Exhibit C: June 16, 2015 letter from William E. Grubbs.

Plaintiff requests any relief the Court may deem appropriate.

Dated: February 20, 2017

Respectfully submitted,

WILLIAM McGREW

By: /s/ James M. Priest, Jr.,
His Attorney

Case: 25Cl1:16-cv-00547-TTG Document #: 10 Filed: 02/20/2017 Page 2 of 2

Of counsel:

James M. Priest, Jr., MSB # 99352
Gill, Ladner & Priest, PLLC
344 Highway 51, Second Floor
Ridgeland, MS 39157
(601) 352-5700
jamie@glplawfirm.com

CERTIFICATE OF SERVICE

I, James M. Priest, Jr., attorney of record for Plaintiff, do hereby certify that on February 20, 2017, I electronically filed the foregoing with the clerk of the Court using the ECF system, which sent notification of such filing to the following:

William E. Grubbs
wgrubbs@qpwbllaw.com

Andrew S. Bullock
andrew.bullock@qpwbllaw.com

/s/James M. Priest, Jr.

Case: 25CI1:16-cv-00547-TTG Document #: 10-1 Filed: 02/20/2017 Page 1 of 2
GILL, LADNER & PRIEST, PLLC
Attorneys at Law

344 Highway 51, Suite 200
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(601) 352-5700 t
(601) 352-5353 f
jamie@glplawfirm.com

September 23, 2016

Via Certified Mail-Return Receipt Requested
Item No. 7009 0080 0001 1782 9200

Via Certified Mail-Return Receipt Requested
Item No. 7009 0080 0001 1782 9217

Greg Garvin, Administrator
Trinity Mission Health & Rehab of Clinton
102 Woodchase Park Drive
Clinton, Mississippi 39056

Woodlands Rehabilitation and
Healthcare Center, LLC
2723 Summer Oaks Drive
Bartlett, Tennessee 38134

Re Notice of Intent to File Lawsuit—Miss. Code Ann. § 15-1-36(15)

My Client: William Calvin McGrew
Social Security No. 587-18-7696
Date of Birth: March 21, 1945
Date of Loss: September 28, 2014-present

Greetings:

William McGrew has hired me to represent him in a personal injury claim against Woodlands Rehabilitation and Healthcare Center, LLC and Trinity Mission Health & Rehab of Clinton. This letter will serve as Mr. McGrew's notice of intent to file suit.

Your facility admitted Mr. McGrew on September 15, 2014 for wound care following surgical amputation of the first and second toes of his left foot. On September 28, 2014, Mississippi Baptist Medical Center admitted Mr. McGrew from your facility through its emergency department. At Baptist, Mr. McGrew was diagnosed with sepsis and dehiscence of the surgical wound with the presence of live maggots. At the time he was admitted to Baptist he also suffered hypernatremia, severe protein calorie malnutrition and metabolic acidosis.

Mr. McGrew remained at Baptist for several weeks. He underwent below the knee amputation of the left leg to address the infection in his foot. The persistent infection necessitated a revised above the knee amputation. After his discharge from Baptist, Mr. McGrew was a resident of another long-term care facility for several months.

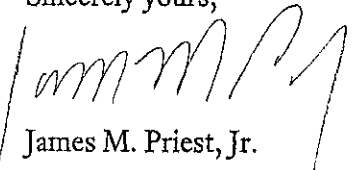
Mr. McGrew's near-fatal and totally debilitating infection resulted from substandard care provided by your facility. Your facility breached the applicable standards of care by failing to provide adequate wound care, failing to give Mr. McGrew adequate hydration and nutrition, failing to properly monitor and assess his condition and failing to timely transfer him to an acute care facility. The lawsuit we will file will seek damages for past and future medical expenses, past

Exhibit A

Case: 25CI1:16-cv-00547-TTG Document #: 10-1 Filed: 02/20/2017 Page 2 of 2
September 23, 2016
Page 2

and future pain and suffering, past and future mental anguish and emotional distress and punitive damages.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'James M. Priest, Jr.', written over a horizontal line.

James M. Priest, Jr.

Cc: William McGrew c/o Lee Jackson
William Grubbs, Esq.

11
11

Case: 25CI1:16-cv-00547-TTG Document #: 10-2 Filed: 02/20/2017 Page 1 of 2

GILL, LADNER & PRIEST, PLLC
Attorneys at Law

344 Highway 51, Suite 200
Ridgeland, Mississippi 39157

(601) 352-5700 t
(601) 352-5353 f
jamie@gllawfirm.com

May 20, 2015

Della Hill, Administrator
Trinity Mission Health & Rehab of Clinton
102 Woodchase Park Drive
Clinton, Mississippi 39056

Via Certified Mail-Return Receipt Requested
Item No. 7009 0080 0001 1782 8241

Re William Calvin McGrew
Social Security No. 587-18-7696
Date of Birth: March 21, 1945
Date of Loss: September 15, 2014-September 28, 2014

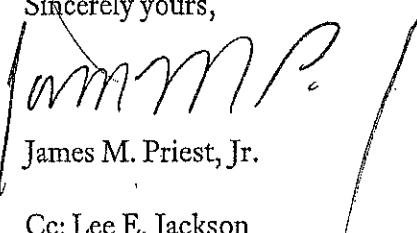
Dear Ms. Hill:

William McGrew, through his daughter and authorized agent Lee E. Jackson, has hired me to represent him in a personal injury claim against Trinity Mission Health & Rehab of Clinton. Your facility admitted Mr. McGrew on September 15, 2014 for wound care following surgical amputation of the first and second toes of his left foot. On September 28, Mississippi Baptist Medical Center admitted Mr. McGrew from your facility through its emergency department. At Baptist, Mr. McGrew was diagnosed with sepsis and dehiscence of the surgical wound with the presence of live maggots. At the time he was admitted to Baptist he also suffered hypernatremia, severe protein calorie malnutrition and metabolic acidosis.

Mr. McGrew remained at Baptist for several weeks. He underwent below the knee amputation of the left leg to address the infection in his foot. The persistent infection necessitated a revised above the knee amputation. Since his discharge from Baptist, Mr. McGrew has been a resident of another long-term care facility.

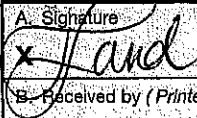
Mr. McGrew's near-fatal and totally debilitating infection resulted from substandard care provided by your facility, and we are prepared to file suit to seek damages for his injuries. But, before we begin the formal litigation process, I would appreciate the opportunity to discuss resolution of these claims. In that regard I ask that you forward this letter to your attorney, risk manager or insurer as soon as possible.

Sincerely yours,


James M. Priest, Jr.

Cc: Lee E. Jackson

Exhibit B

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature </p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Della Hill, Administrator Trinity Mission Health Rehab of Clinton 102 Woodchase Park Dr. Clinton, MS 39056</p>		<p>B. Received by (Printed Name)</p> <p>C. Date of Delivery 02/20/15</p>	
<p>2. Article Number (Transfer from) 7009 0080 0001 1782 8241</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> O.O.D.</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>			

JUN-17-2015 WED 01:52 PM

FAX:

P.001

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QUINTAIROS, PRIETO, WOOD & BOYER, P.A.

ATTORNEYS AT LAW

WWW.QPWBLAW.COM

215 SOUTH MONROE STREET, SUITE 600

TALLAHASSEE, FLORIDA 32301

TELEPHONE: (850) 412-1042 ♦ FACSIMILE: (850) 412-1043

June 16, 2015

via facsimile 601-352-5353

James M Priest, Jr., Esquire
Gill, Ladner & Priest, PLLC
Attorneys at Law
344 Highway 51, Suite 200
Ridgeland, Mississippi 39157

RE: William Calvin McGrew v. Trinity Mission Health & Rehab of Clinton
Our File No.: 84534

Dear Mr. Priest:

Please accept this correspondence to advise you that we have been retained to represent Trinity Mission Health & Rehab of Clinton in the above-entitled matter. Please forward any future correspondence, pleadings, requests, etc. to my office.

Thank you for your attention to this matter. We look forward to working with you.

Sincerely,

William E. Grubbs

WEG/mlb
cc: Hamlin & Burton

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IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

WILLIAM McGREW

PLAINTIFF

v.

Case No. 25CI1:16-cv-00547-TTG

WOODLANDS REHABILITATION AND
HEALTHCARE CENTER, LLC, *et al.*

DEFENDANTS

MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS

On September 23, 2016, Plaintiff sent a certified letter (“the 2016 letter”) to the administrator of Defendant’s nursing home in Clinton, Mississippi and to Defendant’s corporate office. *See* Exhibit A to Response in Opposition to Motion to Dismiss. The subject line of this letter begins “Notice of Intent to File Lawsuit—Miss. Code Ann. § 15-1-36(15).” After undersigned counsel mailed the 2016 letter, counsel reviewed Plaintiff’s file and realized that a previous letter sent to the nursing home was sufficient notice of intent to file suit under the statute. A copy of counsel’s May 20, 2015 certified letter (“the 2015 letter”) and return receipt is attached as Exhibit B to Plaintiff’s response in opposition to the motion to dismiss. On June 16, 2015, Defense counsel wrote the undersigned advising of his representation of Defendant in this matter. *See* Exhibit C to Response in Opposition to Motion to Dismiss, Letter from William E. Grubbs. Other than the caption in the subject line and an invitation to consider pre-suit settlement in the first letter, the 2015 letter and the 2016 letter are substantially identical.

Mississippi Code section 15-1-36(15) states, “No action based upon the health care provider’s professional negligence may be begun unless the defendant has been given at least sixty (60) days’ prior written notice of the intention to begin the action.” The statute goes on to say, “**No particular form of notice is required**, but it shall notify the defendant of the legal basis

of the claim and the type of loss sustained, including with specificity the nature of the injuries suffered.” *Id.* (emphasis added).

Like the 2016 letter, the 2015 letter set out the legal basis of Plaintiff’s claim against Defendant—substandard nursing care resulting in sepsis, dehiscence of a surgical wound with infestation of live maggots, and malnutrition. The 2015 letter also described with specificity Plaintiff’s injuries: a nearly fatal infection and above-the-knee amputation of Plaintiff’s leg.

Again, the statute in question requires no particular form of notice. The 2015 letter provided sufficient notice under the statute as it stated the basis of Plaintiff’s claims and specifically described his injuries. Plaintiff’s counsel sent and Defendant received the 2015 letter well over 60 days before Plaintiff filed his complaint. Because Plaintiff complied with the notice requirement of Miss. Code. Ann § 15-1-36(15) by sending the 2015 letter over 60 days before suit was filed, the Court should deny the motion to dismiss.

Dated: February 20, 2017

Respectfully submitted,

WILLIAM McGREW

By: /s/ James M. Priest, Jr.,
His Attorney

Of counsel:

James M. Priest, Jr., MSB # 99352
Gill, Ladner & Priest, PLLC
344 Highway 51, Second Floor
Ridgeland, MS 39157
(601) 352-5700
jamie@glplawfirm.com

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CERTIFICATE OF SERVICE

I, James M. Priest, Jr., attorney of record for Plaintiff, do hereby certify that on February 20, 2017, I electronically filed the foregoing with the clerk of the Court using the ECF system, which sent notification of such filing to the following:

William E. Grubbs
wgrubbs@qpwbllaw.com

Andrew S. Bullock
andrew.bullock@qpwbllaw.com

/s/James M. Priest, Jr.

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IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF
HINDS COUNTY, MISSISSIPPI

WILLIAM McGREW

PLAINTIFF

vs.

Cause No.: 16-547

WOODLANDS REHABILITATION AND
HEALTHCARE CENTER, LLC formerly
known as TRINITY MISSION HEALTH
AND REHAB OF CLINTON, LLC doing
business as TRINITY MISSION HEALTH
AND REHAB OF CLINTON and
UNKNOWN DEFENDANTS 1-10

DEFENDANTS

**DEFENDANT WOODLANDS REHABILITATION AND
HEALTHCARE CENTER, LLC'S NOTICE OF SERVICE TO PLAINTIFF**

TO: COUNSEL FOR PLAINTIFF

Notice is hereby given that WILLIAM E. GRUBBS and ANDREW S. BULLOCK,
counsel for Defendant WOODLANDS REHABILITATION AND HEALTHCARE CENTER,
LLC ("WOODLANDS"), have this date served the following:

Defendant WOODLANDS' First Request of Admissions to Plaintiff

The undersigned retains the original(s) of the above document(s) as custodian thereof.

Respectfully submitted, this 24th day of April, 2017.

QUINTAIROS, PRIETO, WOOD & BOYER, P. A.
*Attorneys for Defendant, Woodlands Rehabilitation
and Healthcare Center, LLC*



WILLIAM E. GRUBBS (MSB # 100049)
ANDREW S. BULLOCK (MSB #105101)

Case: 25CI1:16-cv-00547-TTG Document #: 12 Filed: 04/24/2017 Page 2 of 2

215 South Monroe Street, Suite 600
Tallahassee, Florida 32301
Tel: (850) 412-1042
Fax: (850) 412-1043
Email: wgrubbs@qpwbllaw.com,
andrew.bullock@qpwbllaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, as attorney for Defendant, Woodlands Rehabilitation and Healthcare Center, LLC, in the above-styled and numbered cause, that I have, this 24th day of April, 2017, served a true and correct copy of the above and foregoing document via the Mississippi Electronic Courts (MEC) filing system upon all counsel of record.



ANDREW S. BULLOCK (MSB #105101)